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Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 48/141 of 20 December 1993.

2. This first year of the new millennium is the occasion for a number of major conferences whose aim is to review progress in a broad range of areas. Review conferences are taking stock of progress made since the World Summit for Social Development and the Fourth World Conference on Women. Preparations are under way for a special session of the General Assembly to review the achievement of the goals of the World Summit for Children. The Millennium Summit will address the role of the United Nations in the twentieth century. Each of these conferences has a strong human rights dimension; each offers the opportunity to reflect on what has been achieved and to consider how to improve strategies in the field of universal human rights.

3. The past year has been marked by a trend which could be said to sum up the human rights story: positive developments in legislative and other fields and, at the same time, numerous instances of serious human rights violations. Over the past 12 months grave violations of human rights have been reported in East Timor, Kosovo, Sierra Leone and Chechnya, to name only some of the most severe conflict situations. The report of the Secretary-General on the protection of civilians in armed conflict (S/1999/957) paints a sorry picture of murder and ill-treatment. Violations of human rights have also been numerous outside conflict situations. Arbitrary killings, detentions, executions, mass displacement of peoples — all have been frequent occurrences. Attacks on human rights defenders continue to be commonplace, as do assaults on the independence of judges and the media.

4. On the positive side, some significant legislative advances have been made. The adoption of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and two Optional Protocols to the Convention on the Rights of the Child — one on children in armed conflict, the other on the sale of children, child prostitution and child pornography — is proof of the international community's continuing commitment to strengthening the legal base for human rights protection. The decision of the Commission on Human Rights, in its resolution 2000/61, to request the Secretary-General to appoint a special representative to monitor the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms is a further welcome development.

5. A key message that the Office of the United Nations High Commissioner for Human Rights is seeking to convey is the importance of putting greater emphasis on preventive strategies in our approach to human rights. Prevention was the theme of the report of the United Nations High Commissioner to the Commission on Human Rights (E/CN.4/2000/12 and Add.1) and speeches and statements have emphasized prevention. As the report to the Commission showed, prevention is multifaceted. Preventive strategies include monitoring of human rights situations, building national and regional capacities in the field of human rights, ensuring accountability and strengthening economic, social and cultural rights and the right to development. The last aspect is of particular significance at a time when the achievements of Beijing and Copenhagen are being reviewed and when the Commission has decided to appoint new special rapporteurs on the right to food (resolution 2000/10) and on adequate housing as a component of the right to an adequate standard of living (resolution 2000/9).

6. One preventive strategy that will be receiving special attention during the coming year is the fight against racism and racial discrimination. The third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which will be held in Durban, South Africa, from 31 August to 6 September 2001, will provide the opportunity to make a thorough inventory of the achievements to date in combating the scourge of racism and the challenges that still face us today. Racism and xenophobia are at the roots of most conflicts. They remain potent forces in our societies and have proved stubbornly resistant to efforts to drive them out. Preparing for the World Conference, drawing input from the different regions and devising new ways of fighting racism and xenophobia will be an important test for the human rights movement during the coming year.

II. Commission on Human Rights

7. At its fifty-sixth session, the Commission on Human Rights approved the report of the inter-sessional open-ended working group on enhancing the effectiveness of the mechanisms of the Commission in its entirety (decision 2000/109), and, in so doing, agreed to recommendations aimed at rationalizing the work of the Commission in the immediate future and also in the longer term.

8. The Commission, in its resolution 2000/87, recommended to the Economic and Social Council the establishment of a Permanent Forum on Indigenous Issues as an advisory body to the Council. This is a welcome initiative, which will provide much needed expert advice to the Council about a particularly vulnerable group. It will also contribute to the coordination of activities relating to indigenous people within the United Nations system. As the office responsible for coordinating the International Decade of the World's Indigenous People, the Office of the United Nations High Commissioner for Human Rights is encouraged by this development and committed to supporting its realization.

9. In the area of thematic mandates, in addition to the three new mandates on food, housing and human rights defenders referred to above, the Commission extended the mandates of the Working Group on Arbitrary Detention (resolution 2000/36), the Special Rapporteur on the independence of judges and lawyers (resolution 2000/42) and the Special Rapporteur on violence against women, its causes and consequences (resolution 2000/45) by three years.

10. While the Commission continued to give impetus to strengthening economic, social and cultural rights, it also emphasized the importance of promoting and consolidating democracy (resolution 2000/47) and broke new ground in addressing the role of good governance in the promotion of human rights (resolution 2000/64). During the special debate on poverty and the enjoyment of human rights held during the fifty-sixth session, there was repeated insistence that all human rights — civil, cultural, economic, political and social — were at stake in situations of poverty.

11. At its fifty-sixth session, the Commission on Human Rights considered reports by its 19 thematic rapporteurs, representatives and chairpersons of working groups. Most of the mandate-holders, in addition to their annual reports, submitted reports prepared following fact-finding missions to various countries. Among others, the Commission had before it the report on the joint mission to East Timor undertaken by the Special Rapporteurs on torture, extrajudicial, summary or arbitrary executions and on violence against women, its causes and consequences, which was carried out pursuant to the resolution adopted by the Commission at its fourth special session on the situation in East Timor, the report on East Timor by the International Commission of Inquiry and reports by the various thematic mandate-holders on visits to Afghanistan, Albania, Belgium, Cameroon, Chile, Colombia, Cuba, Fiji, Germany, Guatemala, Haiti, Hungary, Indonesia, Ireland, Mexico, the Netherlands, Romania, Sri Lanka, the Sudan, the former Yugoslav Republic of Macedonia, Tunisia, the United Kingdom of Great Britain and Northern Ireland and Venezuela.

III. World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

12. The General Assembly decided to convene the World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance not later than the year 2001, and defined the objectives and the guidelines for the preparatory process of the World Conference in resolution 52/111. At its fifty-fourth session, the Assembly, in resolution 54/154, established that the Commission on Human Rights would act as the Preparatory Committee for the World Conference; requested the Secretary-General and the United Nations High Commissioner for Human Rights to make every effort to ensure the mobilization of resources for the voluntary fund for the World Conference; and called upon the High Commissioner to help States and regional organizations, on request, to convene national and regional meetings or to undertake other initiatives to prepare for the World Conference.

13. The Commission, in its omnibus resolution on racism (resolution 2000/14), welcomed the offer by the Government of South Africa to host the World Conference; decided to appoint an 11-member bureau for the two sessions of the Preparatory Committee, consisting of two representatives per regional group, plus a representative of the host country as an ex officio member; and invited Governments to promote

the participation of national institutions and local non-governmental organizations (NGOs) in the preparatory process and in regional meetings. It also encouraged all parliaments to participate actively in the preparation of the World Conference through the relevant international organizations.

14. The Preparatory Committee for the World Conference held its first session in Geneva from 1 to 5 May 2000. It accepted the invitation to hold the World Conference in South Africa from 31 August to 7 September 2001 and adopted the slogan: "United to Combat Racism: Equality, Justice, Dignity" for the World Conference. The Preparatory Committee invited the High Commissioner to draw up a draft declaration and programme of action for the World Conference and to transmit it to the inter-sessional open-ended working group it established to consider the framework for the provisional agenda for the World Conference; and adopted three decisions concerning participation by NGOs in the preparatory process and the World Conference itself.

15. This marked the formal start of the Conference process, though a number of useful informal meetings had already taken place in different parts of the world. In her capacity as Secretary-General of the Conference, the High Commissioner for Human Rights is organizing a number of regional expert seminars within the framework of the Conference in cooperation with the United Nations regional economic commissions and with the Government of Poland. These include:

A seminar for the Central and Eastern European region in Warsaw, from 5 to 7 July 2000, entitled "The protection of minorities and other vulnerable groups and strengthening human rights capacity at the national level";

A seminar for the Asian region in Bangkok, from 5 to 7 September 2000, entitled "Migrant workers and human rights capacity at the national level";

A seminar for the African region in Addis Ababa, from 4 to 6 October 2000, entitled "Preventing ethnic and racial conflicts";

A seminar for the Latin American region in Santiago, from 25 to 27 October 2000, entitled "Economic, social and legal measures to overcome racial discrimination, with particular reference to vulnerable groups".

16. In addition, the Governments of the Islamic Republic of Iran and Senegal have offered to host, respectively, the Asian and the African regional preparatory meetings. The dates and venues of these meetings, as well as that of the Latin American and Caribbean regional preparatory meeting, are still to be decided.

17. As the High Commissioner for Human Rights pointed out in her opening address to the Preparatory Committee, the World Conference has the potential to be among the most significant international gatherings taking place at the start of this century. It can be more: it can shape and embody the spirit of the new century, based on the shared conviction that everyone is a member of the human family. The challenge is to make the World Conference a landmark in the struggle to eradicate all forms of racism. A main focus of the two previous World Conferences against Racism was the fight against apartheid. That struggle had almost universal support. But even as success in abolishing apartheid was achieved, it has become apparent that racism, discrimination, xenophobia and bigotry are worldwide phenomena, more deeply rooted and more virulent than had been supposed.

18. In examining the roots of racism and xenophobia in the modern world, the importance of the economic dimension is immediately apparent. The gulf between the rich and the very large numbers who live in dire poverty is widening all the time. Some people enjoy the luxury of a high standard of living, freedom from hunger, adequate housing and education and high-quality health care. Others experience extreme poverty, lack of safe water, insufficient funds to treat deadly diseases such as AIDS and high levels of illiteracy, especially among women and children.

19. While some are aware of this gulf and attempt to bridge it, many prefer to adopt a fortress mentality, determined to defend their prosperity against perceived external threats. This is a trend that has become increasingly ugly, with xenophobic undertones. There is a tendency to demonize those who travel to rich societies in search of a better life. Migrants are exploited and blamed for economic ills that have nothing to do with them. Refugees, displaced persons and asylum-seekers in search of safety are treated harshly and, more and more often, turned away.

20. It is especially worrying that the fortress mentality is assuming global dimensions. The impact

of globalization on racism and xenophobia is an appropriate subject for the World Conference to consider. Globalization can achieve economies of scale which increase companies' profits. The danger is that unless the international community acts now to ensure that the benefits of the information revolution and open markets are more widely shared, globalization will become another barrier to poorer countries participating fully in the international economy.

21. The international community faces a fundamental choice here: a world with two vastly differing parts, one with ever-increasing wealth and technological sophistication, the other where people live in abject poverty, or a world that embraces the idea that we are all in this together as members of one human family, with entitlements to economic, social and cultural rights that need to be progressively implemented. This latter option regards diversity as strength, not weakness, and recognizes the great social, cultural, and even economic benefits of a multicultural society.

22. Governments have a particular responsibility and duty when it comes to fighting racism, xenophobia, discrimination and intolerance. Relations between different races and ethnic groups within society are a highly sensitive issue and officials in uniform, whether police, military or prison staff, need to be adequately trained. The political community should at all times lead public opinion, not play the race card or pander to those who claim they feel threatened by people they regard as different.

23. During the meetings of the Preparatory Committee, Governments were urged to make a complete inventory of their records in combating racism and discrimination and to resolve to do better. Expressions of goodwill and good intentions are one thing, but these will be of no consequence unless they are matched by resolute action. Strategies that have produced positive results must be identified and replicated and a strong follow-up mechanism to the World Conference put in place to determine whether Governments have delivered on their promises.

24. Everyone who can help to fight racism has a role to play in the World Conference. Members of the United Nations system, intergovernmental organizations and the media all have much to contribute. The Conference should have the broadest possible involvement of civil society and engage the attention and interest of all citizens, young and old. The responsibility for making this happen lies with Governments and regional bodies, and also with NGOs. At the national level, Governments should raise awareness among their citizens, of all ages, including through schools and youth clubs, and should promote active participation in national preparations. The whole United Nations system of organizations, funds, programmes and specialized agencies is being mobilized to address the issues of the World Conference.

25. The Preparatory Committee adopted the following themes to be included in the provisional agenda for the World Conference:

1. Sources, causes, forms and contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance.

2. Victims of racism, racial discrimination, xenophobia and related intolerance.

3. Measures of prevention, education and protection aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance.

4. Provision of effective remedies, recourse, redress, [compensatory][1] and other measures at the national, regional and international levels.

5. Strategies to achieve full and effective equality, including international cooperation and enhancement of the United Nations and other international mechanisms in combating racism, racial discrimination, xenophobia and related intolerance.

IV. Human rights, social development and the human rights of women

26. Since 1989 the United Nations has focused attention, through major conferences and high-level meetings, on a number of subjects of significant importance in the social arena, including the welfare of children, human rights, social development and women. At those conferences important progress was made in recognizing human rights. The standards adopted together provide a clear statement of the common human rights heritage, which must be carefully preserved and extended for present and future generations. The following sections deal with some of

the human rights dimensions of the World Summit for Social Development and the Fourth World Conference on Women and the follow-up process to those conferences within the context of the present review exercises.

A. World Summit for Social Development (Copenhagen+5)

27. The World Summit for Social Development and the Copenhagen Declaration and Programme of Action adopted at the Summit established a new consensus to place people at the centre of concerns for sustainable development and pledged to eradicate poverty, promote full and productive employment and foster social integration to achieve stable, safe and just societies for all. Two years earlier the core message of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights had been the affirmation that development, democracy and human rights are interrelated and interdependent. Each of the 10 commitments of the Copenhagen Declaration has its own human rights elements and relevance, which merit separate consideration.

Creating an enabling environment for development

28. Human rights are central to a concept of development that is people-centred, participatory and environmentally sound. This concept stresses not just economic growth, but equitable distribution, enhancement of people's capabilities and enlargement of their choices. It gives highest priority to eliminating poverty, integrating women in the development process, self-reliance and self-determination of people and Governments, including respect for the rights of indigenous people. This complements the definition of development provided by the Declaration on the Right to Development. In the context of discussions within the United Nations on the right to development, Member States are seeking to define the elements of an effectively enabling environment which respects particularities. Significant progress has been made in recent years on the question of the right to development. This is perhaps most evident within the Commission on Human Rights, with the establishment of an open-ended working group on the right to development, and the appointment of an independent expert with a mandate to study the current state of progress in the implementation of the right to development. The conceptual approach of the independent expert, recognizing the complex and multifaceted nature of the right to development, is to sample the three core elements of the rights to food, to primary health care and to primary education and to consider both the national obligations of States and the global obligations of the international community.

29. The elements of an enabling environment on the national level have been dealt with by the Committee on Economic, Social and Cultural Rights, which has noted that the International Covenant on Economic, Social and Cultural Rights includes, in its article 2, an undertaking "to take steps ... by all appropriate means, including particularly the adoption of legislative measures". While this neither requires nor precludes any particular form of government or economic system, it does require that the system be democratic and that all human rights be respected thereby. The Committee has underlined the fact that, even in times of severe resource constraints, whether caused by a process of adjustment, economic recession or other factors, the vulnerable members of society can, and indeed must be, protected by the implementation of appropriate programmes.

30. The concept of good governance has also found greater clarity as a result of the work of the Commission on Human Rights. The resolution adopted at its last session in April 2000 identified the key attributes of good governance to be transparency, responsibility, accountability, participation and responsiveness. It expressly linked good governance to an enabling environment conducive to the enjoyment of human rights and to the promotion of growth and sustainable human development. In underscoring the importance of development cooperation for securing good governance in countries in need of external support, the resolution recognizes the value of partnership approaches to development cooperation and the inappropriateness of prescriptive approaches.

31. The global enabling environment for development has also been reviewed. Globalization may bring important benefits to millions of people in all regions, but it is equally clear that inequality is growing and larger numbers of the world's population are failing to reap a share of the benefits. This rapidly evolving context makes all the more urgent the need to find rights-based solutions to underdevelopment and poverty by linking change to the international human

rights framework, thus ensuring that the poor and excluded participate in development and that they benefit from it.

32. The need to encourage faster, broader and deeper debt relief for heavily indebted poor countries is central to building an enabling environment for development. In recognition of this fact, the Commission on Human Rights established the mandate of a Special Rapporteur on foreign debt in 1998. The Special Rapporteur has emphasized the link between debt relief and social investment.

33. Private business interests and corporations have become powerful actors in the shaping of not only the individual national economic environment but of the international order as well. Thus, at the 1999 World Economic Forum in Davos, Switzerland, the Secretary-General launched the Global Compact, challenging business to support nine principles derived from universally agreed standards relating to human rights, labour and the environment. In 1999, the Subcommission on the Promotion and Protection of Human Rights established a working group on the working methods and activities of transnational corporations to identify the national and international legal standards which apply to them, to elaborate principles of individual and collective responsibilities of transnational corporations and to consider the development of a code of conduct for transnational corporations based on human rights standards. The Subcommission has also appointed two experts as special rapporteurs to undertake a study on the issue of globalization and its impact on the full enjoyment of human rights.

Eradicating poverty

34. It has been more than 50 years since the adoption of the Universal Declaration of Human Rights, which proclaimed that everyone has the right to an adequate standard of living. Yet United Nations statistics reveal that the total number of people living on less than one dollar a day has risen to over 1.2 billion. Perhaps no social phenomenon is as comprehensive in its assault on human rights as poverty. It erodes or nullifies economic and social rights such as the rights to health, adequate housing, food and safe water and the right to education. Poverty has the same negative effect on civil and political rights, such as the rights to a fair trial, genuine elections and security of the person. That the particular and disproportionate victims of poverty are women, minorities, migrants, indigenous people and the peoples of Africa is undeniable.

35. We also know that many aspects of poverty are not reflected in the statistical indicators. Foremost are the subjective daily assaults on human dignity that accompany poverty. Poverty begets feelings of powerlessness, desperation and shame. The poor are subject to daily humiliation, abuse, rejection, exclusion and harassment. The poorest feel the unrelenting agony of chronic hunger, the suffering of untreated disease and the exposure of inadequate shelter. A recent World Bank study that based its findings upon perspectives gathered directly from people in poverty found that these factors are among those that have the most significant impact on their daily lives. This recognition of the fundamental importance of participation and empowerment to effective development strategies must be seen as a further indication of the necessity of a rights-based approach. The social exclusion of the poor and their lack of power in the face of insensitive local officials, corrupt institutions and inaccessible development decision makers point to the need for the creation of new mechanisms to ensure that the voices of the poor are heard and given authority in development.

36. The Commission's independent expert on extreme poverty has made several recommendations for action in solidarity with the world's poorest. She calls for a global alliance for the elimination of extreme poverty and the development of a universal strategy to that end. She points to the importance of careful assessment by international financial institutions of the social impact of their policies on the poorest. The independent expert lists a number of key elements of an effective battle against poverty, including strong political will, good governance and effective capacities at the national level, and more international solidarity and increased official development assistance (ODA) at the international level. The commitments made at Copenhagen underline the relevance of all these elements.

Realizing full and dignified employment

37. Full and dignified employment, in conformity with international workers' rights, including equal access for women and protection of the rights of minorities and migrant workers, is fundamental to human development, human dignity and human rights. There is now a wealth of detailed and legally binding

international norms and standards relating to workers' rights, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the fundamental conventions of the International Labour Organization (ILO), and the ILO Declaration on Fundamental Principles and Rights at Work.

38. Among those most vulnerable to abuses of labour rights are migrant workers. The promotion and protection of the rights of migrant workers is thus a particularly important step in achieving full and dignified employment for all. The international community adopted the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in 1990. The Convention is an important step in protecting migrant workers and their families from exploitation and in bringing to an end the illegal and often exploitative movement of migrants. The Convention has not yet come into force and to date has been ratified by only 12 States.

39. Entry of the Convention into force will be an important step towards full and dignified employment and a global campaign has been undertaken by a coalition of NGOs and the United Nations to promote ratification of the Convention. In the meantime, the Commission on Human Rights has itself been instrumental in promoting the rights of migrants, migrant workers and their families. In 1999, the Commission appointed a Special Rapporteur on the human rights of migrants. In her first report to the Commission in April 2000, the Special Rapporteur focused on clarifying the definition of migrants and migrant workers and identifying those migrants with no or little protection, such as women and trafficked migrants. In April 2000, the Commission requested the Economic and Social Council to consider the possibility of recommending that 18 December be designated as "International Migrants Day".

Promoting social integration and non-discrimination

40. Article 1 of the Universal Declaration of Human Rights sets forth the principle that all human beings are born free and equal in dignity and rights. Trends in human development reveal violations of this most fundamental human rights principle as well. Overall, global inequality is getting worse, with the ratio between the average income of the world's richest 5 per cent and that of the poorest 5 per cent having increased from 78:1 in 1988 to 123:1 in 1993. Social integration, identified by the Copenhagen Declaration as a key process of social development, has many enemies. Internal conflict, discrimination, intolerance and impunity are powerful and still widespread barriers to sustainable human development. In order to overcome these barriers, action must be taken to promote human rights, democracy, the rule of law, non-discrimination and the protection of vulnerable groups, including minorities, migrants and indigenous people.

Achieving gender equality

41. Under commitment 5 of the Copenhagen Declaration, the international community pledged to promote gender equality, including through the protection of the human rights of women at both the national and international levels and through the promotion of the ratification of the Convention on the Elimination of All Forms of Discrimination against Women. In a world where the majority of people living in poverty are women, and where women account for two thirds of the illiterate adult population of developing countries, that commitment has yet to be met. Further information on gender equality is set out below in the section dealing with the Fourth World Conference on Women.

Attaining universal and equitable access to education and health

42. Exercising the right to education can be an effective way to escape from the grip of poverty. The Commission on Human Rights has appointed a Special Rapporteur on the right to education who is working to promote social development through education, with a special emphasis on elaborating the crucial legal components of that right, identifying financial obstacles and considering the right to education from a gender perspective. She has stressed in her reports that the realization of the right to education may be seen not only as a catalyst for the realization of all other rights, but also as a vehicle for achieving social development. Not surprisingly, she identifies the principal threat as poverty, its impact on education is likely to be significant but is as yet unpredictable and she warns that education cannot be expected to lead to poverty eradication before education itself is rescued from poverty.

43. Both the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights recognize the right to health. The Commission on Human Rights has given special attention to the issue of health including the impact of toxic waste on the right to health, the use of traditional and customary practices affecting the health of women and girls, the rights of disabled persons, HIV/AIDS and development, drinking water, sanitation and the right to health, as well as bioethics and human rights.

44. Today, there is increasing clarity with regard to the practical content of the right to health and its normative implications. In May 2000, the Committee on Economic, Social and Cultural Rights adopted a general comment on the right to health,[2] which serves to clarify the normative content of the right to health, as well as requirements for national implementation, the obligations of various actors, including non-State actors, and violations of the right to health. The general comment states that the right to health is closely related to and dependent on the realization of other human rights, including the rights to food, work, housing, education, human dignity, life, non-discrimination, equality, protection against torture, privacy and access to information, as well as the freedoms of association, assembly and movement. The Committee recognizes that for millions of people throughout the world, the full enjoyment of the right to health remains a distant goal and underlines the important role of United Nations agencies and programmes in cooperating, including with States as well as civil society, to promote and protect the right to health.

Accelerating development in Africa and the least developed countries

45. While much work in Africa and the least developed countries has focused on humanitarian action, disaster relief and conflict resolution, the international human rights community is also launching some key strategies to assist the development of African and least developed countries. Sadly, to date, the effect of development activities in these countries has not matched the enormity of the problems at hand. For Africa, the many barriers to sustainable social development and secure human rights include the HIV/AIDS epidemic, staggering foreign debt, armed conflict, humanitarian disasters and crises.

46. The United Nations Programme of Advisory Services and Technical Assistance in the Field of Human Rights promotes development by cooperating in specific projects in African and least developed countries at the request of national Governments. As the link between good governance, stability and increased investment becomes clearer, the Office of the High Commissioner is increasingly pursuing subregional strategies in Africa for building and strengthening human rights institutions and for assisting development agencies to integrate the promotion and protection of human rights into established programmes for development. The strategy involves the assignment of subregional human rights officers to advise Governments and United Nations development agencies on the integration of human rights into development assistance and development policy with a strong focus on the promotion of good governance. Pilot projects in southern Africa have been started with future projects expected in the Central African region.

Integrating social development goals in structural adjustment programmes

47. The United Nations has taken several important steps in providing a framework to assist States in meeting their commitment to ensure that structural adjustment programmes include social development goals and respect human rights. In 1997, the Commission on Human Rights appointed an independent expert to study the effects of structural adjustment policies on the enjoyment of economic, social and cultural rights and their impact on development and established an open-ended working group on human rights and structural adjustment.

48. Structural adjustment has also been of particular concern to the Committee on Economic, Social and Cultural Rights in its examination of the reports of States parties to the Covenant. The Committee has recognized that adjustment programmes will often be unavoidable and frequently involve a major element of austerity and that every effort must be made in times of structural adjustment to ensure that the basic economic, social and cultural rights of the poorest and most disadvantaged sectors of the population are protected to the greatest extent possible. The Committee has also recommended that greater emphasis be placed by donor countries, within the framework of official development assistance, on supporting social adjustment programmes for purposes such as the financing of low-interest credit to the poorest farmers,

slum upgrading and other programmes for housing the poor.

Increasing and utilizing development resources more efficiently

49. Article 2 (1) of the International Covenant on Economic, Social and Cultural Rights obliges each State party to take steps, not only individually, but also through international cooperation and assistance, with a view to achieving progressively the full realization of economic, social and cultural rights. The Declaration on the Right to Development recognizes a collective international obligation to development and States have the duty to cooperate in eliminating obstacles to and achieving development. Simply increasing development resources will not be sufficient; they must also be made more effective and more efficient. In this regard, rights-based approaches offer important added value. Strengthening the institutions of governance and the rule of law is a vital way to maximize the efficient use of existing development resources and increase the confidence of donors, Governments and civil society in the development process.

Improving and strengthening the framework for cooperation

50. In the post-Copenhagen development debate, an important lesson is gaining recognition: rights-based approaches, in practical terms, produce better, more sustainable results. A rights-based approach to development is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It begins by defining the objectives of development in terms of particular rights as legally enforceable entitlements and creates express links to international, regional and national human rights instruments. It also takes into consideration the full range of indivisible, interdependent and interrelated rights: civil, cultural, economic, political and social.

51. A rights-based approach focuses on raising levels of accountability in the development process by identifying claim-holders and corresponding duty-holders and on the development of adequate laws, policies, institutions, administrative procedures and practices. It also gives particular attention to discrimination and to vulnerable groups, among them women, minorities, indigenous people, prisoners and others.

52. The implications of a rights-based approach are now being explored in work on the United Nations Development Assistance Framework and through the system-wide analysis by the Office of the High Commissioner for Human Rights of technical cooperation in the field of human rights, the official human rights guidelines for resident coordinators and, with the United Nations Development Programme (UNDP), the memorandum of understanding between UNDP and the Office of the High Commissioner, the task force and Human Rights Strengthening (HURIST) programme.

B. Fourth World Conference on Women (Beijing+5)

53. The Beijing Platform for Action adopted at the Fourth World Conference on Women in 1995 was a landmark in the recognition of the human rights of women. The Beijing Platform built upon the Vienna Declaration and Programme of Action, explicitly reaffirmed that the human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights, and established a number of specific strategic objectives to ensure that women enjoy their full human rights. It is important to maintain the standards relating to the human rights of women as the implementation of the promises made in Beijing proceeds.

54. The Vienna Declaration and Programme of Action proclaimed that all human rights are universal, indivisible, interdependent and interrelated, which means that human rights must be the same everywhere and for everyone. Moreover, although national and regional particularities and historical, cultural and religious traditions need to be considered, it is the duty and the responsibility of States to promote and protect all human rights and fundamental freedoms for all, regardless of their political, economic and cultural systems.

Equality

55. The international community has a duty to ensure the realization of equality among all human beings, men and women, as required by all international human rights instruments. The principle of equality is inherent

in the notion of human rights and should be a basis for their realization. The Convention on the Elimination of All Forms of Discrimination against Women requires, in article 1 not only that women should be accorded rights equal to those of men, that is, there should be no *de jure* discrimination, but also that women should be able to enjoy all their rights, which requires that other than legal obstacles be identified and eliminated. However, eliminating de facto discrimination is a much more complex and difficult task than enacting laws that recognize equal rights for all.

56. Women are entitled to the enjoyment of all human rights, including those relating to economic development and resources, as part of their equal entitlement to all human rights. Lack of equal access to resources and opportunities represents a denial of rights, which creates obstacles to equality between men and women and results in the perpetuation of women's economic inequality and poverty. The equal treatment of women in economic and social life is therefore a cornerstone for the full realization of these rights.

57. In March 2000, the Human Rights Committee gave its interpretation of article 3 of the International Covenant on Civil and Political Rights in its comprehensive General Comment No. 28 regarding the equal rights of men and women (CCPR/C/21/Rev.1/Add.10). The Committee confirmed that gender equality is an overarching principle that applies to the enjoyment of all rights — civil, cultural, economic, political and social — and that the right to gender equality is not merely a right to non-discrimination. Affirmative action is required. States parties are under an obligation to take all necessary steps to enable every person to enjoy the rights provided for in the Covenant on an equal basis and in their totality. Such steps include the removal of obstacles to the equal enjoyment of such rights, the education of the population and of State officials in human rights and the adjustment of domestic legislation so as to give effect to the undertaking set forth in the Covenant.

58. The far-reaching implications of General Comment No. 28 are evident in the requirement that States parties must prohibit discrimination on the ground of sex and put an end to discriminatory actions both in the public and the private sector. In its concluding observations following the examination of States parties reports, the Human Rights Committee has repeatedly placed emphasis on the need to adopt appropriate measures to combat discrimination by non-State actors.

59. Also earlier this year, the Committee on the Elimination of Racial Discrimination adopted General Comment 25 on gender-related dimensions of racial discrimination.[3] The Committee notes that racial discrimination does not always affect women and men equally or in the same way. There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree, than men. Such racial discrimination will often escape detection if there is no explicit recognition or acknowledgment of the different life experiences of women and men in areas of both public and private life.

Reproductive health rights

60. The Programme of Action adopted at the International Conference on Population and Development held in Cairo in 1994 set out the content of reproductive rights and much of the language was incorporated into the Beijing Platform for Action. That Platform states: that good health is essential to leading a productive and fulfilling life and that the right of all women to control all aspects of their health, in particular their own fertility, is basic to their empowerment; and that the human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence.

61. The Committee on the Elimination of Discrimination against Women has affirmed that access to health care, including reproductive health care, is a basic right under the Convention. The Human Rights Committee has stated that States parties should give information on any measures taken by the State to help women prevent unwanted pregnancies and to ensure that they do not have to undergo life-threatening clandestine abortions.

62. The Special Rapporteur on violence against women, its causes and consequences, in her 1999 report to the Commission on Human Rights, stated that many forms of violence against women result in violations of women's reproductive rights because such violence often imperils their reproductive capacities and/or prevents them from exercising reproductive and sexual choices. Similarly, many reproductive rights

violations constitute violence against women per se; this is defined in the Declaration on the Elimination of Violence against Women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

63. The Committee on the Rights of the Child has systematically raised issues of reproductive and sexual rights of girls and has formulated recommendations regarding: legal ages for marriage that are seen to be too low or are lower for girls than for boys; legal age of consent for sexual relations that can be too low or lower for girls than for boys, and which can be linked to insufficient legal protection against sexual abuse and exploitation for girls deemed to be above the legal age of sexual consent; high rates of adolescent pregnancy and/or abortion; access to age-appropriate sex education through effective channels; the right of children to obtain medical advice and treatment, in accordance with their age and maturity, without parental consent; and greater vulnerability of girls to HIV/AIDS and other sexually transmitted diseases.

Gender equality and property, land rights, inheritance

64. At its fifty-sixth session in March/April 2000, the Commission on Human Rights adopted resolution 2000/13 on women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing. In that resolution the Commission affirmed that discrimination in law against women with respect to acquiring and securing land, property and housing, as well as financing for land, property and housing, constitutes a violation of women's human right to protection against discrimination. It urged Governments to design and revise laws to ensure that women are accorded full and equal rights to own land and other property and the right to adequate housing, including through the right to inheritance; and to undertake administrative reforms and other necessary measures to give women the same right as men to credit, capital, appropriate technologies, access to markets and information.

65. The Commission has also encouraged Governments to support the transformation of customs and traditions that discriminate against women. It recommended that Governments encourage financial lending institutions to ensure that their policies and practices do not discriminate against women and recommended that international institutions, regional, national and local housing financing institutions and other credit facilities promote the participation of women, take their views into account and remove discriminatory policies and practices, giving special consideration to single women and households headed by women.

66. In her report to the fifty-sixth session of the Commission, the Special Rapporteur on violence against women, its causes and consequences, reported on economic and social policy and its impact on violence against women. She noted that unequal ownership rights leave women dependent on men. In many countries there is no legal provision enabling women to own property. Under some traditional laws, women do not inherit land as it is assumed that a woman will marry and be provided for by her husband outside her community. Again, when her husband dies she will not inherit the land, as it will revert back to her husband's family. Widows are often left without means to support themselves financially or to obtain medical care and may be forced to leave their marital home. Where women receive property or funds, they may incur the anger of other family members and suffer from threats of or actual violence; some may even be killed. When women do not own land, they frequently are unable to obtain credit, even when they are legally permitted to do so, as land is required as collateral. Not being a full member of society in legal terms prevents female heads of household from being able to support their families. Formal housing might not be available or affordable and the family may be exposed to the vagaries of the informal housing sector. Married women who are legally and economically dependent on their husbands are also affected by this situation of powerlessness, as they have no access to the family's economic resources. In cases of domestic violence, the inability to live independently without a husband or father may prevent women from seeking safety outside the home.

Gender equality and the family

67. The Human Rights Committee affirms the principle of equality within the family. In General Comment No. 28, the Committee noted that States are required to treat men and women equally with regard to the right to marriage. Men and women have the right to

enter into marriage only with free and full consent. The Committee noted that many factors may prevent women from being able to make the decision to marry freely. One factor relates to the minimum age for marriage. That age should be set by the State on the basis of equal criteria for men and women. These criteria should ensure women's capacity to make an informed and uncoerced decision.

68. The Human Rights Committee pointed to a second factor. In some States, either by statutory or customary law, consent to marriage is given by a guardian, who is generally male, instead of by the woman herself. The existence of social attitudes which tend to marginalize women victims of rape and which put pressure on them to agree to marriage are incompatible with a woman's right under article 23 of the Covenant, as noted by the Committee in its general comments: "A woman's free and full consent to marriage may also be undermined by laws which allow the rapist to have his criminal responsibility extinguished or mitigated if he marries the victim". The Committee notes further that polygamy violates the dignity of women and should be abolished wherever it continues to exist.

69. Equality during marriage implies that husband and wife should participate equally in responsibility and authority within the family. States must also ensure equality in regard to the dissolution of marriage, which excludes the possibility of repudiation.

70. The Special Rapporteur on violence against women, its causes and consequences, in her 1999 report to the Commission, noted that the State plays an important legal and moral role in family life, as well as an important role in determining the status, rights and remedies of individual family members. The Special Rapporteur noted that one of the primary ways in which dominant familial ideology affects women, as well as men, is through dictates on sexuality.

Trafficking in women and children

71. Trafficking is now recognized as a serious human rights issue, a special and global infringement of the human rights of women. Trafficking was a major issue at the fourth World Conference on Women and the Beijing Platform for Action reflects this. Although no definition has been agreed upon at the international level, the link between trafficking, forced prostitution and the violation of women's rights has been clearly established. An essential aspect is the recognition that, because of the core elements of coercion and exploitation, trafficking constitutes violence against women and, consequently, a violation of the human rights of the women concerned.

72. A consistent and concerted approach to trafficking requires a common understanding of the problem and general agreement on preferred approaches and solutions. The Office of the High Commissioner recognizes that trafficking is not a single event but a series of constitutive acts and circumstances implicating a wide range of actors. It is essential that anti-trafficking measures take account of this fact and that efforts be made to address the entire cycle of trafficking. This will involve improving the information base; ensuring an adequate legal framework and effective law enforcement; prevention, protection and support for trafficked persons; and cooperation and coordination between national, regional and international responses.

73. In developing detailed responses to each stage of the trafficking cycle, it is essential that certain basic policy principles guide and inform any anti-trafficking initiative. These principles must ensure a uniform adherence to a human rights-based approach and can also provide a means of measuring the success of anti-trafficking measures:

(a) **First**: The protection of the human rights and the dignity of trafficked persons must be given the highest priority;

(b) **Second**: Governments must accept responsibility for the problem of trafficking and for the development and implementation of appropriate responses. Trafficking is not a private wrong — this is an injustice that involves and implicates us all;

(c) **Third**: The definition of the term — trafficking — in laws, policies and programmes should not be restricted to sexual exploitation. It should be broad enough to cover other identified purposes without ambiguity, such as bonded or forced labour and other slavery-like practices. It should use child- and gender-sensitive language to signal that children and women are the people most vulnerable to trafficking;

(d) **Fourth**: Traffickers and their collaborators must be prosecuted and adequately penalized,

paying full attention to due process rights and without compromising the rights of the victims;

(e) **Fifth**: Trafficked persons should not be criminalized for the involuntary illegality of their entry to or residence in countries of transit and destination, or for the involuntary activities they perform as a consequence of their being trafficked;

(f) **Sixth**: Victims of trafficking, including those in an "irregular" immigration status, should be granted protection and necessary physical and mental care by the authorities of receiving countries;

(g) **Seventh**: Victims of trafficking should be provided legal and other assistance in the course of any criminal, civil and other actions against traffickers. Governments should be encouraged to provide temporary or permanent residence permits, safe shelter and adequate witness protection during legal proceedings;

(h) **Eighth**: The safe and, as far as possible, voluntary return of victims, instead of automatic repatriation, should be ensured, particularly in cases of organized criminal involvement;

(i) **Ninth**: Children should not be treated in the same way as adults in the identification, rescue and repatriation process. Children have special rights and special needs that must be recognized and protected;

(j) **Tenth**: efforts must be made to address the root causes of trafficking such as poverty, inequality, discrimination and racism.

74. The United Nations human rights programme is making a most important contribution to a fuller understanding of the human rights aspects of social development and the human rights of women, which strengthens the legitimacy of the calls for action, reinforces the accountability factor and describes more accurately the objectives sought. The rights-based approach is proving to be a powerful tool for progress and it will be important to future success for the human rights sector to work more closely with those promoting social development and the rights of women.

V. National institutions for the promotion and protection of human rights

75. Independent national human rights institutions play an important role in the promotion and protection of human rights and the Office of the High Commissioner has continued to mainstream national institutions in all its activities, including the treaty bodies and special mechanisms.

76. The Office of the High Commissioner continues to encourage national institutions to address economic, social and cultural rights as well as the rights of vulnerable groups in their activities. These rights were the topic of discussion at the fifth International Workshop of National Human Rights Institutions held in Rabat in April 2000. The declaration adopted at the workshop highlighted that the fight against poverty and the effective enjoyment of economic, social and cultural rights by all persons constitute priorities for action by national institutions.

77. There is increasing recognition that globalization has had a tremendous impact — and not always a positive one — on the enjoyment of economic, social and cultural rights. National institutions from developed and developing countries and in countries with economies in transition face huge challenges as complaints, which are no longer limited to civil and political rights, increase. For example, the Human Rights Commission of India receives more complaints of a social, economic and cultural nature than relating to traditional civil and political rights, as does the Ombudsman of Ukraine. Characteristically, housing, welfare assistance and social security are among the issues typically addressed in complaints received by the national institutions of transitional democracies. While it would be unrealistic to expect that national institutions alone could solve the complex human rights problems emerging as a result of the combined forces of political and economic transition, they can provide an important channel for human rights concerns emanating from civil society.

78. Noting the re-emergence and extension of various forms of racism, racial discrimination, xenophobia and related forms of intolerance, national institutions are already working to prepare for the upcoming World Conference. Many national institutions have race relations or similar commissioners who will be well

placed to provide added expertise. Similarly, because national institutions are accessible, they will be able to carry direct messages from those with concerns to the Conference. National institutions will have the right to participate as observers in the World Conference and will be invited to take an active part in the search for practical solutions during the various preparatory activities. Support for the involvement of national institutions in race-related issues is evidenced in a working paper prepared for the Working Group on Minorities of the Subcommission on the Promotion and Protection of Human Rights, which calls for national institutions to look at prevention strategies, education, the media, means of legal protection and international mechanisms and cooperation as they relate to the prohibition of discrimination and the protection of minorities.

79. National institutions play an equally important role in the fight against the abuse of the rights of women, children and persons with disabilities by assisting political and legislative bodies in the development of appropriate law and practices. The role of national institutions in the promotion and protection of the rights of women was discussed at a regional workshop on the role of national human rights institutions in advancing the international human rights of women held in Suva in May 2000. The workshop urged national institutions to pay greater attention to the economic, social and cultural rights of women, including the rights to shelter, food, water, primary education and primary health care, as fundamental rights, as well as to their sexual and reproductive rights. The contribution national institutions could make in this area was seen to include the gathering and examination of gender-disaggregated statistics and the recommending to Governments of suitable programmes that are realistic, cost-effective and achievable within a set time-frame.

80. Children's rights were the subject of discussion at a seminar on the role of national human rights institutions in the protection and promotion of the human rights of children held in Manila in September 1999. The seminar compared the best practices of national institutions, which included national inquiries, collaboration, strategic lobbying, pilot and local projects, public awareness and education campaigns, research, public interest litigation and acknowledgement of children's rights activists. It also made recommendations, including for the recognition of children as holders of rights and for respect for the views of children, which should guide the work of national institutions in this field. Similarly, it recommended that children should be widely and directly consulted in order to establish the child's perspective on issues affecting them.

Notes

[1] The Preparatory Committee, in adopting this decision (PC.1/13), put the word "compensatory" in square brackets and a number of statements in that regard were included in the report of the Committee (A/CONF.189/PC.1/21) at the request of representatives of either regional groups or States.

[2] As of this writing the text of the general comment on the right to health had not yet been published.

[3] As of this writing the text of the general comment had not been published. An unedited version is available in the treaty bodies database on the Internet at www.unhchr.ch.